

OTR F 10/176
AUG 04 2003
PATENT & TRADEMARK OFFICE

PTO/SB/21 (03-03)

Approved for use through 04/30/2003. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/057,323	
	Filing Date	01/25/2002	
	First Named Inventor	Harry R. Davis, et al.	
	Art Unit	1617	
	Examiner Name	Mojdeh Bahar	
Total Number of Pages in This Submission	4	Attorney Docket Number	CV01489K

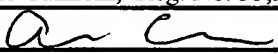
RECEIVED

AUG 07 2003

TECH CENTER 1800/2900

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Other Enclosure(s) (please Identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	Certificate of Mailing (1 Page); Post Card
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Certified Copy of Priority Document(s)	Remarks	
<input type="checkbox"/> Response to Missing Parts/Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

RE-

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual	Ann Marie Cannoni, Reg. No. 35,972
Signature	
Date	08/01/2003

CERTIFICATE OF TRANSMISSION/MAILING	
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date: _____	
Typed or printed	_____
Signature	_____
Date	_____

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

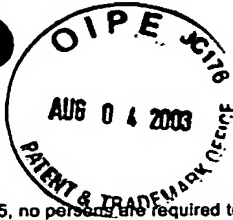
If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

Attorney Docket No.: CV01489

Application No.: 10/057,323

Filing Date: 01/25/2002

Inventor: Harry R. Davis et al.



PTO/SB92 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031

U. S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Certificate of Mailing under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

on 08/01/2003

Date

Signature

Ann Marie Cannoni, Reg. No. 35,972

Typed or printed name of person of signing Certificate

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

Documents submitted:

Response Transmittal Form PTO/SB/21 - 1 Page

Response to Restriction Requirement and Election Species - 2 Pages

Certificate of Mailing - 1 Page

Post Card

Burden Hour Statement: This form is estimated to take 0.03 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U. S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

RECEIVED
AUG 07 2003
TECH CENTER 1600/2900



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
AUG 07 2003
TECH CENTER 1600/2900

Re Patent Application of:
Harry R. Davis et al.

Serial No.: 10/057,323

Filed: January 25, 2002

For: Combinations of Peroxisome
Proliferator-Activated Receptor
(PPAR) Activator(s) and Sterol
Absorption Inhibitor(s) and
Treatments for Vascular
Indications

Examiner: Mojdeh Bahar

Group Art Unit: 1617

Atty. Docket No.: CV01489K

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450


RESPONSE TO RESTRICTION REQUIREMENT AND ELECTION OF SPECIES

This is in response to the Office Action mailed on July 2, 2003, in the above-identified patent application.

Claims 1-101 are pending in the application. A two-way restriction requirement was set forth at page 2 of the Office Action and an election of species requirement was set forth at pages 3-4 of the Office Action. For brevity, these rejections are not repeated herein but reference is made to the Office Action. Applicants respectfully traverse and request reconsideration and withdrawal of the restriction and election of species requirements.

Applicants believe that when there is a linking claim encompassing the scope of pharmaceutical compositions comprising compounds and methods of treatment using the compositions, it is inappropriate to restrict the invention. Applicants believe that due to such commonality a complete examination of claims 1-101 would not cause undue burden. Therefore, reconsideration and withdrawal of the restriction requirement is respectfully requested.

I hereby certify that this correspondence is being deposited with the U.S. Postal Service First Class Mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 1, 2003.


Ann Cannoni
Registration No. 35,972



**PROVISIONAL RESPONSE TO RESTRICTION REQUIREMENT AND
ELECTION OF SPECIES**

To facilitate prosecution of the application and in order to comply with the Examiner's requirements, Applicants hereby provisionally elect with traverse the claims of Group 1 (claims 1-34, 37-40, 42-48, 53-54, 56, 58-59, 61, 63-64, 66, 68-69, 71, 73-74, 76, 78-79, 81, 83-84, 86, 88-91 and 93-101) for initial examination in this application.

Applicants provisionally elect with traverse fenofibrate as the peroxisome proliferator-activated receptor (PPAR) activator for initial examination. Fenofibrate is disclosed at page 23, line 19 and elsewhere throughout the application. The claims readable thereon include claims 1-4, 11-43, and 45-87.

Applicants provisionally elect with traverse the compound of Formula (II) (ezetimibe) (shown at page 32 of the specification) for initial examination in this application. The claims readable thereon include claims 1-52 and 88-101.

Applicants provisionally elect with traverse niacin for initial examination in this application. Niacin is disclosed at page 68, line 20 and elsewhere throughout the application. The claim readable thereon is claim 21.

Applicants provisionally elect with traverse treating or preventing a vascular condition for initial examination in this application. The claims readable thereon include claims 35-36, 41, 49-52, 55, 57, 60, 62, 65, 67, 70, 72, 75, 77, 80, 82, 85, 87 and 92.

Examination on the merits for claims 1-101 is respectfully requested.

Respectfully submitted,

ANN MARIE CANNONI
Registration No. 35,972
Attorney for Applicant

Date: August 1, 2003


SCHERING CORPORATION
Patent Department, K-6-1-1990
2000 Galloping Hill Rd.
Kenilworth, NJ 07033-0530
Telephone: (908) 298-5024
Facsimile No.: (908) 298-5388